

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ELEAZAR VILLEGAS,

CASE NO. 5:14-cv-00718 EJD

ORDER RE: SERVICE OF PROCESS

Plaintiff(s),

v.

KAMALA HARRIS, et. al.,

Defendant(s).

Plaintiff Eleazar Villegas ("Plaintiff") filed a Complaint on February 14, 2014, against a number of officers from the Santa Clara Police Department and Kamala Harris in her capacity as the California Attorney General. See Docket Item No. 1. He also filed an application to proceed in forma pauperis on that same date. See Docket Item No. 2.

Magistrate Judge Paul S. Grewal granted the application and ordered service of process through the United States Marshal. See Docket Item No. 4. This caused a series of Summonses to be issued by the Clerk of Court, which were subsequently served by the Marshal's Office. See Docket Item Nos. 5-10. Unfortunately, those Summonses were inaccurate since they identified the officer defendants as affiliated with the *San Jose* Police Department instead of the *Santa Clara* Police Department. The errors on the Summons, in turn, caused the Marshal's Office to serve the incorrect law enforcement agency. See Docket Item No. 11.

This case was reassigned to the undersigned on July 7, 2014. See Docket Item No. 19. Presently before the court is a recommendation by Judge Grewal that this action be dismissed for

failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b), issued after Plaintiff failed to appear at a Case Management Conference and subsequently failed to timely respond to an Order to Show Cause ("OSC"). See Docket Item No. 18. Plaintiff eventually did file a response to the OSC, albeit late, but nonetheless made one important observation about his failure to attend the Case Management Conference: he was unaware that service of process had been accomplished (or some flawed form of it) because, in other cases, he had filled out the Summons forms and provided them to the Clerk before service was attempted.

Since the prior attempt at service was obviously ineffective, the court will not dismiss this action at this time, but will instead allow Plaintiff to proceed as he has done in other cases.

Accordingly, the court orders as follows:


1. On or before **August 8, 2014**, Plaintiff shall prepare and provide to the Clerk's Office one Summons form (Form AO-440) for each defendant. Each Summons must contain the defendant's name and his or her correct address for service of process.
2. Once the Summonses are provided by Plaintiff, the Clerk shall issue them on the docket and provide copies to the United States Marshal, who shall serve all defendants over again.

Because the court is allowing sufficient time for Plaintiff to accomplish this task, requests to extend the time to provide new Summonses will not be considered and should not be filed. Plaintiff may wish to contact The Federal Legal Assistance Self-Help Center at the San Jose Courthouse (FLASH) for assistance. Appointments can be made Mondays through Wednesdays by calling (408) 297-1480.

Plaintiff is advised that failure to comply as directed will result in an order adopting Judge Grewal's recommendation that this action be dismissed for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

IT IS SO ORDERED.

Dated: July 24, 2014


EDWARD J. DAVILA
United States District Judge